

**From:** [John McKay](#)  
**To:** [Brian T. Maye](#)  
**Cc:** [Timothy Titolo](#); [Christine Niemczyk](#); [Matthew D. Martin](#); [Charles Michalek](#)  
**Subject:** Re: Delvecchia v. Frontier  
**Date:** Friday, June 18, 2021 11:37:34 AM  
**Attachments:** [image001.gif](#)

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Hi Brian,

Sorry we did not have an opportunity to discuss this. We cannot agree to this for a number of reasons:

1. First, as I mentioned, we believe that an IME would be traumatic for this child, who is in treatment for his PTSD with a provider in North Carolina.
2. Second, we question whether an IME is the appropriate discovery vehicle under these circumstances, as opposed to depositions of his treating provider and/or expert witness (once disclosed).
3. Third, if the Court does have a hearing on whether an IME is appropriate, we would be submitting declarations supporting the above concerns and, at the very least, requesting that measures be implemented to protect the child to the furthest extent possible.
4. Fourth, we absolutely cannot, under any circumstances, agree to an IME by the psychologist you have proposed. You or Matt previously proposed this particular psychologist, and we informed your office at that time that we would never agree to her after conducting research on her. There are numerous complaints about her demeanor, biases, lack of objectivity, *etc.* that make her a particularly unsuitable choice, in my opinion, for an IME with any child.

Sorry we cannot reach agreement on this, but I hope you can appreciate our concerns. Since Rule 35 explicitly requires an Order, we will be treating the Notice of Rule 35 Examination as a nullity.

Have a good weekend.

Best regards,  
John

John D. McKay  
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EXHIBIT D

On Fri, Jun 4, 2021 at 1:58 PM Brian T. Maye <[bmaye@amm-law.com](mailto:bmaye@amm-law.com)> wrote:

John and Tim,

Please see attached our Rule 35 Request for Examination and an accompanying notice. I'll be around next week to discuss.

Have a nice weekend.

Brian

Brian T. Maye

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